

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 10, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: Rep. Veronica Small-Eastman, Vice Chairman (D)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary
Transcribed by Lindsey Grovom

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	SB 98, 3/3/2005; HB 632, 3/3/2005; HB 593, 3/3/2005; SB 197, 3/3/2005; SB 180, 3/3/2005
Executive Action:	HB 593

HEARING ON SB 98

Opening Statement by Sponsor:

SEN. JOSEPH (JOE) TROPILA (D), SD 13, opened the hearing on **SB 98**, Montana Land Information Act. He said the purpose of the bill was to create a standardized sustainable method to collect and maintain information about the natural and artificial land characteristics of Montana.

{Tape: 1; Side: A; Approx. Time Counter: 4 - 16}

Proponents' Testimony:

Janet Kelly, Director, Department of Administration, stated that local, state, federal and tribal agencies rely upon geographic information systems data, and the information improves their decision-making capability. The bill provides a stable funding source and standardized method so Montana businesses and citizens have access to accurate land information.

EXHIBIT(sth53a01)

Jeff Brandt, Acting Chief Information Officer, Department of Administration, gave a description of Geographic Information Systems (GIS), the types of GIS data that need to be managed and how the bill is structured.

EXHIBIT(sth53a02)

Jim Kembel, Montana Association of Registered Land Surveyors, stood in support of the bill.

(REPRESENTATIVE ALAN OLSON left the meeting.)

Glenn Oppel, Montana Association of Realtors, stood in support of the bill and urged a do pass.

Julie Shewman, American Society of Civil Engineers, supported the bill.

Alex Philp, GCS Research, supported the bill and read written testimony on behalf of former Governor of Wyoming, Jim Geringer.

EXHIBIT(sth53a03)

{Tape: 1; Side: A; Approx. Time Counter: 16 - 23}

John Arrigo, Department of Environmental Quality, explained how the bill would be a valuable tool in the enforcement division within which he works.

Dolores Cooney, Department of Revenue Property Assessment Division, remarked that standardization of methods and coverages and financing of those coverages was critical.

Ken Wall, Geodata Services Inc., provided written testimony and also a letter co-signed by eleven other businesses doing Geographic Information Systems work in Montana.

[EXHIBIT\(sth53a04\)](#)

[EXHIBIT\(sth53a05\)](#)

Bob Holliday, self, testified that SB 98 would help advance his profession by providing current standardized sources of geographic coverage in Montana.

Bryant Ralston, Environmental Systems Research Institute, made three points in support of SB 98:

- The GIS data created and maintained by success of the passage of this legislation is crucial to a wide range of diverse and private entities across the state.
- The legislation would help the State of Montana make better use of it's existing GIS infrastructure
- This legislation would better position Montana to leverage additional funding opportunities in the future.

[EXHIBIT\(sth53a06\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 23 - 30}

Chris Smith, Fish, Wildlife and Parks, rose in support of SB 98 and provided written testimony

[EXHIBIT\(sth53a07\)](#)

Glen Gromely, Montana Information Technology Alliance, urged support of SB 98.

Jim Hill, Administrator, Digital Library Division for the State Library, said that the State Library housed the Natural Resource Information System and spoke on how this bill would be beneficial to its future.

Mark Baker, Attorney, Plum Creek Timber Company, found the GIS information technology very valuable to the management of the plants and urged support.

REP. BROWN asked Mark Baker if this type of project would have merit to the granting program. **Mr. Baker** said he would have to check on that.

Mike Pichette, Northwestern Energy, stood in support of the bill.

Tony Herbert, Montana Geographic Information Council, provided written testimony on behalf of Qwest Communications.

EXHIBIT(sth53a08)

{Tape: 1; Side: B; Approx. Time Counter: 1 - 14}

Mike Halligan, Washington Company, supported the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. DEE BROWN noted that the fiscal note called for two FTEs and asked Janet Kelly what that position would pay and what the people would do. **Ms. Kelly** referred the question to Jeff Brandt. **Mr. Brandt** answered that the FTEs would be funded through the revised funding mechanism in the bill. The management salary would be in the sixty-thousand dollar range and the other was a programming position and would be in the forty-thousand dollar range. **REP. BROWN** asked if it was true that there was one manager for only one programmer. **Mr. Brandt** said that was not true; the entire department consists of five FTEs. **REP. BROWN** followed up by asking if the GIS was exclusive from the cadastral system. **Mr. Brandt** replied that this was all part of the cadastral system. **REP. BROWN** followed up by asking how many people would have to be hired at the local level in order to get it up and running. **Mr. Brandt** stated that the work that would result would actually result in avoiding hiring at the local level. The whole purpose of the group was to coordinate that activity across the state.

REP. BERNIE OLSON mentioned that he noticed that the council would be made up of 26 members serving a two-year term that begins and ends at the same time. He questioned the Sponsor whether or not that was a good construction. **SEN. TROPILA** replied that he was very impressed with the task force.

Closing by Sponsor:

SEN. TROPILA closed the hearing.

HEARING ON HB 632

Opening Statement by Sponsor:

REP. JOHN SINRUD (R), HD 67, opened the hearing on **HB 632**, Performance audit of certain schools. This bill would allow school districts from around the state to request from the legislative auditor the ability to do a performance audit. He handed out information on what it would cost to fund the FTEs. **EXHIBIT**(sth53a09)

{Tape: 1; Side: B; Approx. Time Counter: 15 - 26}

Proponents' Testimony:

Rod Svee, Billings Public Schools, spoke in favor of the bill but mentioned that he did not think the fiscal note was anywhere near sufficient.

Opponents' Testimony:

Joan Anderson, Office of Public Instruction (OPI), claimed the bill was unnecessary and not clearly written. She had five technical questions as to the wording of the bill.

- Section 1, Subsection 2-B, the request for an audit had to identify the funding source, if any for the requested audit.

- Section 3, Subpart 8, said the auditor would conduct an audit of the school district's issues and concerns.

- Section 3, Subpart 13, required the Board of Public Education to coordinate through the State Superintendent in requesting an audit.

- The Board of Public Education in the section was allowed only to request a performance audit of a program that affects multiple school districts, not including the single school districts. In Subsection 4, OPI had a similar restriction allowing them only to request an audit of multiple school program.

- The school districts were required to submit reports on their progress for two or more years as follow-up in the bill to the Legislative Audit Committee. There was no apparent consequence for failure to report.

Bob Vogel, Montana School Boards Association, stated his concerns of the supervision and control by local school districts.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. BROWN asked if the Sponsor intended for the bill to take over all auditing processes in the school districts. **Rep. Sinrud** said, "Absolutely not."

(Representative Brown left the meeting.)

REP. DICKENSON inquired of Joan Anderson whether there were performance audits done through OPI in various public school districts. **Ms. Anderson** replied that they are not the types of audits that the bill suggests.

{Tape: 1; Side: B; Approx. Time Counter: 26 - 30}

REP. JACOBSON asked Jim Pellegrini how typical it was for the people of the Legislative Audit Division to be requested to audit non-state entities. **Mr. Pellegrini** replied that he hadn't done audits for non-state agencies as they receive state money.

REP. BERNIE OLSON questioned Mr. Vogel whether the large schools already did performance audits. **Mr. Vogel** answered that he believes some do but referred the verifying of the question to Mr. Svee. **Mr. Svee** replied that his schools do performance audits on a consistent basis.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 16}

Closing by Sponsor:

REP. SINRUD closed, urging a do pass by the Committee, saying that this was an opportunity for school districts to have some dollars for performance audits to look at their schools and how they are operating.

HEARING ON HB 593**Opening Statement by Sponsor:**

REP. ROGER KOOPMAN (R), HD 70, opened the hearing on **HB 593**, Prohibit lobbying by certain public employees. He believes this bill will bring a more balanced situation where the people of the state feel that they have a larger role and are not being crowded out by "government copying government." He went on record to verify that a person's right of speech is in no way restricted by the bill.

(REPRESENTATIVE EMELIE EATON entered the meeting.)

{Tape: 2; Side: A; Approx. Time Counter: 16 - 31}

Proponents' Testimony:

Gary Marbut, representing himself, believed that all citizens need to be involved in the process of the development of public policy. He thought it was time for the people of the legislature to weigh in on the process and establish some standards.

Opponents' Testimony:

Ted Clack, Montana Magistrates Association, believed this bill would deny access to vital information on the potential operational and fiscal impact of legislative proposals, as well as information of possible unintended consequences.

EXHIBIT(sth53a10)

Bob Vogel, Montana School Boards Association, felt that the people wanted someone at the legislature to represent their interests. He stated that HB 593 prevents that from happening.

(REPRESENTATIVE CAFERRO left the meeting.)

Darrell Rud, Executive Director, Schools Administrators of Montana, conveyed his opposition to the bill and how it could remove several thousand intelligent, well-educated, credible tax-paying citizens from this important process. He insisted the voices of educators were needed in the process.

Todd Lovshin, MEA-MFT, attested that public employees are an integral part of the process. He was confused about the bill saying that public employees may not lobby while being paid by the state. He wondered if they could lobby or be involved while on vacation time or come otherwise as a private citizen.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 17}

Kathy Bramer, representing superintendent of Public Instruction, Linda McCulloh, opposed the bill for a number of reasons. She stated that publicly-funded bodies such as state agencies, county and local governments, and schools have a stake in many of the issues; they provide valuable information for the legislators in the decision-making process.

Gary Macdonald, Roosevelt County Commissioner, rose in opposition to the bill.

Mary Phippen, Montana Association of Clerks of District Court, asked the Committee how many funds would be expended to defend

unintended consequences of implementation of laws developed without the expertise of local government employees and officials.

{Tape: 2; Side: B; Approx. Time Counter: 7 - 20}

Rod Svee, Billings Public Schools, reported that his trustees hold a weekly public session to gain input on bills and on the legislative session. By their direction, he and one other person then represent their viewpoints.

Informational Testimony: None.

Questions from Committee Members and Responses:

CHAIRMAN JENT questioned the Sponsor concerning Article 6, Section 9 of the Montana Constitution. He asked why a governor cannot delegate that duty to the departments of the executive branch. **REP. KOOPMAN** replied that under the legislation, he would rather hear a governor directly, if the information coming is clearly an advocacy.

REP. HENDRICK relayed to the Sponsor a problem he saw in the bill. He asked if the legislation would stop a representative of the Senate as he was being paid to come in and testify on bills.

REP. KOOPMAN answered that it does not restrict elected officials in any way.

REP. DICKENSON asked the Sponsor about the period of time when there are questions from the Committee. She wondered what would happen if a question took the person testifying away from the specific piece of information they were asked to bring. **REP. KOOPMAN** replied that questions could be asked in a broad range concerning every aspect of the bill.

Closing by Sponsor:

REP. KOOPMAN closed by saying that it is wrong when the citizens of the state feel intimidated in coming to testify before the legislature. He declared that this bill would bring a measure of control back into the process.

{Tape: 2; Side: B; Approx. Time Counter: 20 - 30}

HEARING ON SB 197

Opening Statement by Sponsor:

SEN. KELLY GEBHARDT (R), SD 23, opened the hearing on **SB 197**, Revise pension benefits for volunteer firefighters. He said that this bill also allows someone to get a proportionate amount of retirement for each year they work beyond twenty years. He provided a graph illustrating that.

[**EXHIBIT**](#)(sth53a11)

Proponents' Testimony:

John Sempel, Montana Fire Alliance, urged support for the bill.

Dave Mason, volunteer Fire Chief, stated that there was nothing stronger than the heart of a volunteer. He explained that the benefits for returning after retirement would be a great incentive.

Ross Fitzgerald, Teton County Volunteer Fire Department, thought the bill might bridge the gap and encourage the experienced fire fighters to continue on.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 17}

John Worthy, Birdseye Volunteer Fire Department, explained how, across the state, membership numbers of volunteer fire departments were dropping consistently. He said that under current law, once a person received their 20 years of service and were eligible for retirement, the law says they can draw their retirement but they cannot be a member of the fire department. The bill would allow those members to continue on with the department.

Opponents' Testimony:

Melanie Symons, Montana Public Employees Retirement Administration, provided a handout and explained the retirement process being proposed through the bill in detail.

[**EXHIBIT**](#)(sth53a12)

Informational Testimony: None.

Questions from Committee Members and Responses:

CHAIRMAN JENT looked at the back of the fiscal note and noticed an error. He asked for clarification from the Sponsor.

SEN. GEBHARDT replied that he was unsure. **REP. MACLAREN** was able to answer the question and said that it was an IT error.

CHAIRMAN JENT inquired of Mr. Worthy if investment income in 2004 increased. **Mr. Worthy** said, "Yes," and remarked that the numbers he had were out of the retirement system's annual financial reports. The investment income number that he had for 2004 was \$2.27 million, 2001 was a negative \$260,000. He went on to say that the fire premium tax was a fixed percentage of five percent of the premiums paid.

(REPRESENTATIVE HENDRICK left the meeting.)

{Tape: 3; Side: A; Approx. Time Counter: 17 - 30}

CHAIRMAN JENT asked Melanie Symons if the money flowing into the system was paid with an insurance premium tax and the income from investments. **Ms. Symons** said that was correct. **CHAIRMAN JENT** went on to say that in order to make any sort of projection, there needed to be knowledge of how much money was coming in or not coming in from the insurance premium tax and know how the investments are doing. **Ms. Symons** said that was correct.

REP. MALCOLM referred a question to Melanie Symons as to the projected yearly expense. **Ms. Symons** replied that she will provide that information.

REP. MACLAREN asked if the five percent insurance premium tax was the only money for the fund. **Ms. Symons** understood that they get five percent insurance premium tax each year and it is paid to them by the State Auditor's Office.

Closing by Sponsor:

SEN. GEBHARDT closed the hearing on SB 197.

HEARING ON SB 180

Opening Statement by Sponsor:

SEN. MIKE COONEY (D), SD 40, opened the hearing on **SB 180**, Allow state archives to charge annual fee. He said the bill was attempting to give the Historical Society some revenue to allow them to deal with the records. If the public wanted access to these materials, it may not be possible because of the backlog.

SEN. COONEY presented an amendment to put the fee on state agencies.

EXHIBIT(sth53a13)

{Tape: 3; Side: B; Approx. Time Counter: 1 - 10}

Proponents' Testimony:

Arnie Olson, Montana Historical Society, provided handouts and described the situation at the Montana Historical Society.

[EXHIBIT\(sth53a14\)](#)

[EXHIBIT\(sth53a15\)](#)

[EXHIBIT\(sth53a16\)](#)

{Tape: 3; Side: B; Approx. Time Counter: 10 - 18}

Darlene Staffeldt, State Librarian, urged support of the bill and said that access to information or intellectual capital is as important to the future of communities as is access to financial capital.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. JACOBSON referred to Line 18 of the bill and asked the Sponsor if he would want to put "judicial" in that sentence. **SEN. COONEY** answered by saying that he understands the judiciary handle their own records.

CHAIRMAN JENT asked the Sponsor if he meant there would be a charge of \$9 per FTE for each of the agencies' authorized positions. **SEN. COONEY** said that was correct. **CHAIRMAN JENT** said there are certain agencies of the government that have greater historical significance than others.

REP. DICKENSON figured that a \$9 charge from each agency would total almost \$25,000. She wondered if, with that coming out of the agencies' budgets, there would have to be a trade off of some sort or another within DPHHS. **SEN. COONEY** confirmed that and assumed it would come out of the Director's budget.

REP. MALCOLM referred to the amendment and wondered why the Sponsor thought it necessary to include all the audit issues. **SEN. COONEY** deferred the question to Arnie Olson. **Mr. Olson** said that technically was correct, but the auditor felt that by putting it in, it would put a particular focus on dealing with the issue.

{Tape: 3; Side: B; Approx. Time Counter: 18 - 22}

Closing by Sponsor:

SENATOR COONEY closed the hearing on SB 180.

(At the time of executive action, REPS CAFERRO and HENDRICK were present at the meeting.)

EXECUTIVE ACTION ON HB 593

Motion: **REP. BERNIE OLSON** moved that HB 593 DO PASS.

Substitute Motion: **REP. OLSON** made a substitute motion that HB 593 BE TABLED.

CHAIRMAN JENT delayed acknowledgment of the motion to table to allow for discussion.

Discussion:

REP. HENDRICK thought there needed to be some thought put into the bill and more time to research it.

REP. DICKENSON mentioned that she thought atmosphere in government changes from one two-year term to the next. She wondered if in the last several terms, the atmosphere had become less open and more regimented. **REP. DICKENSON** did not think the process had broken to the point where they would need to cut off valuable information that the lobbyists provide.

REP. JACOBSON said there were concerns on the constitutionality of the piece of legislation.

CHAIRMAN JENT cited that the constitutional provision referenced Article 6, Section 9, which allowed the Governor to communicate with the legislature. He didn't think that the Governor, after the State of the State Address, would come over personally and testify.

CHAIRMAN JENT said that he would now recognize the motion to table HB 593.

Vote: Motion to table carried 13-3 by roll call vote with **REP. CAFERRO**, **REP. HENDRICK**, and **REP. JONES** voting no. **REP. DEE BROWN**, **REP. VERONICA SMALL-EASTMAN** and **REP. ALAN OLSON** voted by proxy.

Exhibit 17 was given out after adjournment.

EXHIBIT(sth53a17)

ADJOURNMENT

Adjournment: 11:15 A.M.

REP. LARRY JENT, Chairman

LINDSEY GROVOM, Transcriptionist

LJ/mm

Additional Exhibits:

EXHIBIT ([sth53aad0.PDF](#))